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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,510	02/06/2001	Theo T. M. Bogaert	10806-116	8428

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EXAMINER

DEMILLE, DANTON D

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

**Office Action Summary**

Application No.

09/777,510

Applicant(s)

BOGAERT ET AL.

Examiner

Danton DeMille

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19, 21-23 and 25-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-23, 35-47 and 51-54 is/are allowed.
- 6) ☒ Claim(s) 1-19, 25-34, 48-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Claim Rejections - 35 USC § 103***

1. **Claims 1-19, 25, 29-34 and 48-50 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Feingold '553 in view of Wanders '899.**
2. Feingold teaches the conventional concave intraocular lens. Figure 17 details the non-spherical surface. One of ordinary skill in the art would see that R8 is a point of inflection along with the corresponding concave curvature on the posterior surface. One would recognize that this abrupt change of angle would cause some degree of reflection. This distortion of the image would cause some discomfort in the patient.
3. Wanders teaches a lens that has discontinuities between areas of the lens but "that the transition between the distance part with radius  $R_v$  and the reading part with radius  $R_l$  is particularly gradual" and "image discontinuity and reflection will be avoided" (column 6, lines 15-19). It is well recognized in the art to avoid abrupt changes in the surface of the lens because of the light refraction. Wanders provides a smooth transition between sections of the lens to avoid image discontinuity and reflections. Such is well known to the artisan of ordinary skill. It would appear the only difference between the claims and the prior art is the fact that the instant invention provides a continuous surface free of any discontinuities. It is well recognized to provide as continuous surface free of any abrupt changes in the surface of the lens. It would have been obvious to modify Feingold, if not inherent, to provide a curved surface free from discontinuities and points of inflection as taught by Wanders so as to eliminate any discontinuities disrupting the natural progression of the light through the lens.

4. Regarding claims 9-19, the specific dimensions of the lens are an obvious consideration dependent on specific practical intended use parameters well within the realm of the artisan of ordinary skill.

5. Regarding claim 30, the drawings of Feingold clearly show the peripheral part has a thinner thickness than the inner part and therefore would have higher flexibility.

6. Regarding claim 48, there is no unobviousness to provide a plurality of lens of different powers.

7. **Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 5 above, and further in view of Choyce.** It would have been obvious to one of ordinary skill in the art to further modify Feingold and shape the peripheral part with a generally concave portion as taught by Choyce to minimize obstructions and reduce the amount of material used.

*Allowable Subject Matter*

8. **Claims 21-23, 35-47 and 51-54 are allowable over prior art to which the examiner is aware.**

*Response to Arguments*

9. Applicant's arguments filed 17 April 2003 have been fully considered but they are not persuasive. Applicant argues that Feingold does not teach that there may be performance problems with their invention. That the point of inflection at R8 may be a problem. This is not surprising. The problem of image discontinuity and reflection is recognized in the art as taught by Wanders. Wanders has different sections of the lens where surface meet at abrupt angles and that there is a need to have the transition to be as gradual as possible. It is felt that it is not an

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inventive step to smooth out any discontinuities in the lens that is intended to pass light to the eye. While Wanders may not be an intraocular lens the problem is still the same.


Discontinuities in the surface of the lens causing reflecting light and image discontinuity.

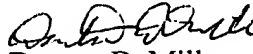
10. Regarding Choyce, figure 1 clearly shows a two separate diametrically opposite concave indentations in the support part of the lens. Such would have been an obvious provision in Feingold to minimize obstructions and reduce the amount of material used. Choyce is not cited to teach the continuous posterior surface of the lens. Wanders teaches that. Applicant chose the wrong purpose for Choyce.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

ddd  
1 July, 2003  
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